



Ontario
Ministry of
Labour

Ontario
Conciliation and
Mediation Service

Preventive
Mediation

Progress
Through
Joint Action

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Contents

Determining the Need for Joint Action 3

**Problems Inherent in
Joint Action Committees 6**

**Obtaining Union and Management
Agreement and Commitment to Committee 6**

**Sample Format of Bylaws
for Joint Action Committees 10**

**Sample Format of Agreement Establishing
a Joint Action Committee 11**

The Ontario Conciliation and Mediation Service's *Preventive Mediation Program* is based on a conviction that establishing and maintaining a sound relationship between union and management is of paramount importance to their mutual well-being.

The *Adversary System* of collective bargaining does not preclude the parties working together during the term of the *Collective Agreement* on the many problems of the workplace that cannot be effectively dealt with in a 'win/lose' atmosphere.

Once the Collective Agreement is signed, there are numerous reasons why the parties should develop and foster a problem solving relationship based upon Joint Action in pursuit of common goals.

The goals can range from a desire to improve communications to an extensive program, covering many and varied areas of mutual concern.

Whatever the goal, there is one thing in common - the essential need for representatives of union and management to communicate. *Joint Action* is one of the keys to accomplishing it.

That's what this booklet is about.

Determining the Need for Post-settlement Joint Action

All too often, the only formal means of communication between union and management is the contractual grievance procedure. That line of communication is strictly one between adversaries. A 'win/lose' atmosphere is not conducive to solving other matters of mutual concern. The result is that top management is often insulated from the operational problems that later become labour relations disputes. Too late, management finds that unresolved day-to-day problems ultimately land on the bargaining table at contract time.

The need for Joint Action may become obvious in contract negotiations. And all too often, the unresolved problems are pushed to the side after the contract is settled. Allowed to fester, they become grievances or critical issues in the next set of contract negotiations. Thus, the divisive cycle repeats itself.

What are the clues that indicate the need for an improved means of communications between union and management?

1. An unusually high number of grievances or repetitive grievances on the same issues.
2. Lack of use or improper use of the grievance procedure.
3. Few settlements of grievances in lower steps or an excessive number of arbitration cases.
4. Frequent disciplinary actions flowing from rigid enforcement of shop rules.
5. A larger number of 'relationship-type' demands during contract negotiations.
6. Distrust, which breeds poor attitudes at the bargaining table.
7. An indication of economic crisis within a company, i.e., partial plant closure, low productivity, poor quality, inability to compete.
8. A breakdown of communications at all levels.
9. An unwieldy union structure.
10. An unwieldy management structure.

Why Consider Joint Action?

Joint Action is not a substitute for the grievance procedure or contract negotiations, but it can contribute to making both more effective forums for constructive resolution of disputes. As such, the Joint Action Committee can develop into a significant factor in improving labour relations.

From a practical standpoint, both union and management want to know why they should shift from an adversary position to one of mutual co-operation.

Today's complex economic problems call for new efforts by union and management to pull together in a spirit of co-operation to make the most productive use of their skills and resources.

The spread of modern technology to parts of the world with lower labour costs, the increasing need for costly raw materials from abroad and the pressure from foreign producers on domestic suppliers have had a profound impact on the Canadian economy.

At home, rapid technological change has had a far-reaching effect, creating new opportunities, changing the nature of jobs and transforming the work environment. Social and educational changes also have impact on unions and management. A rising level of education, the influx of youth, minorities and women in the work force and the employees' greater expectations from their work are affecting management and unions alike.

Many management and union representatives recognize that new approaches are needed to deal co-operatively with mutual problems. They recognize that 'business as usual' is no longer a viable approach to these problems. There is general agreement that more co-operation is needed to:

1. Involve employees in solving workplace problems.
2. Reduce waste due to absenteeism, turnover, lack of training, accidents, low morale and employee dissatisfaction.
3. Utilize more fully the skills and knowledge of employees.
4. Do the job at a more competitive cost.

The best ideas for improving the way a job is done often come from the people doing the job. Every organization benefits from the ideas and skills of the people working in it, just as employees' security depends on the success and growth of the firm.

Ontario mediators are committed to helping management and union officials meet these goals. They stand ready to provide counsel and assistance to the union-management community.

What's in it for Management?

1. A forum to review business conditions, quality problems, product development, customer requirements and other related matters that demonstrate the relationship of the employees' role in the success or failure of the business.
 2. An opportunity for early discussion of operational problems, planning and scheduling and other matters that have potential impact on employee work schedules, overtime scheduling, layoffs, recalls, temporary transfers or new job opportunities.
 3. An open channel of communication for top management to establish rapport with the union committee, without becoming bogged down in day-to-day labour relations problems, including grievances.
 4. An opportunity for management to be responsive to constructive suggestions and valid complaints, demonstrating to the union and employees that management is sincerely interested in improving the work environment.
 5. A means of communicating with employees through their elected leaders.
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What's in it for the Union?

1. A channel of communication to top management.
2. A chance for input on operational problems and management plans that affect employees' work schedules, job assignments and working conditions.
3. An avenue to express employee complaints that lie outside the normal grievance procedure.
4. An opportunity to resolve minor problems before they become significant grievances.
5. Recognition, by management, of the union as a responsible organization with a constructive role beyond that of simply processing grievances.
6. A means of strengthening communications with the membership.

Problems Inherent in Joint Action

The Joint Action Committee is no panacea. It requires sincere people who are willing to give it a try. Management has an understandable anxiety that such committees may encroach on its right to manage. Management recognizes that the committee will require more time off with pay for union members and that it will require time and attention of top management personnel.

On the other hand, union representatives are susceptible to the political implications of how their members might view their participation in Joint Action Committee meetings. Union leaders don't want to be charged with getting too cozy with management. They have little interest in consulting with management unless they can make a serious contribution. They don't want to be patronized.

The problem-solving approach of the Joint Action Committee does not imply a shifting or reduction of power. It is simply a better means of communicating and exercising the responsibility of leadership. It is an approach that can make the relationship mutually beneficial.

Obtaining Union and Management Agreement and Commitment

The first step in minimizing union-management conflict during the term of an agreement is for both parties to recognize their mutual problems and to be willing to make the necessary commitment to resolve them.

Ontario mediators are in a unique position to provide expert assistance in the formation of a Joint Action Committee. Although the mediator can assist the parties in establishing a mechanism to help solve their problems, union and management officials have the final responsibility for the resolution of their problems.

Obviously, the commitment of the parties will have considerable bearing on the effectiveness of any Joint Action Committee. Top management in the plant must support the concept. Local union officials and stewards must get the support and understanding of the rank-and-file membership.

Planning for Success

Good intentions must be accompanied by proper planning and organization. It's in this key phase that the mediator's experience and guidance can be most valuable.

Once agreement and commitment to the establishment of a Joint Action Committee have been obtained, an organizational meeting is necessary. This meeting requires the involvement of the decision-makers from management and the union, since the composition of the Joint Action Committee and the guidelines it will follow will be made and endorsed at this session.

The guidelines should include statements on:

1. The purpose and commitment of the committee, which may be signed by leaders of both parties.
2. The structure and size of the committee.
3. A procedure for the timing, size and exchange of agenda.
4. The time, place, duration and frequency of meetings.
5. The method for taking and maintaining minutes of the meetings.
6. A method of communication to respective principals.
7. Other matters unique to their particular relationship.

Each party should assign top representatives as permanent members. Provision should also be made for the rotation of 'at-large' members.

- Management should have a top operations official, such as the plant manager or production manager, and the industrial relations or personnel manager as part of its permanent committee. The union's permanent committee members should include its international or business representative, the local union president or chief steward, as well as the shop committee or key members of the executive board. It is also suggested that no alternates or substitutes be permitted as permanent members of the committee.
- Rotating members – a supervisor and steward, for example – can be chosen from the same department. This method of rotation gives each group in the plant an opportunity for co-ordinated participation. The 'at-large' rotating members also lend credibility by providing an open door for potential skeptics.

- A determination of the procedure for appointing chairpersons should be made. The mediator usually chairs the meeting; once the parties are proceeding successfully, the mediator withdraws.
 - The chair then usually alternates between both parties. The mediator remains involved as long as the parties want third-party assistance. The mediator will be available if the parties encounter a special problem that requires third-party help.
 - It is important to determine the procedure for the exchange, timing and size of each agenda. It is beneficial for both parties to specify subjects for the agenda and to submit them to the other party several days in advance of the meeting. The parties should be encouraged not to be so rigid in their agenda requirements that a 'hot' issue cannot be placed on the agenda at the last minute by mutual consent. Urgent business should be aired first to keep tensions at a minimum. Topics that remain will then be given consideration in a more relaxed atmosphere. Each committee member, in turn, should be given an opportunity to express opinions on each issue.
 - Meetings should be regularly scheduled to assure continuity. Initially, the frequency should be once a month for two hours. The frequency and duration can be expanded or reduced to suit the needs of each situation.
 - Other general guidelines may be established, such as:
 - Neither party may demand or propose any change in the language of their current agreement.
 - Active grievances will not be discussed. This should not prohibit the discussion of serious problems that may, in an incidental manner, be covered by an active grievance.
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Hints on Minutes

While proceedings of Joint Action Committee meetings tend to be conducted in an informal atmosphere, the need for some written record is important. Minutes demand a strong sense of credibility. The minutes must accurately reflect the discussions to be credible.

- Minutes can be recorded by both parties. These minutes might be pooled, edited, and approved by both parties prior to final preparation and distribution.
- The minutes should record 'old business,' reflecting items satisfactorily disposed of, as well as 'open' items still under study. This shows a positive cause-and-effect relationship that demonstrates the value of the Joint Action Committee to the membership as an avenue for

valid complaints or suggestions. This not only lends support to the union committee's participation, but also places management in a positive light as being responsive to constructive suggestions.

- It should be agreed that these written proceedings will not be introduced into any grievance or arbitration hearing. This is vital. Maintaining uninhibited dialogue is essential to success.
- A method for distribution of minutes should be agreed upon. Minutes can be posted on company bulletin boards, presented at company meetings or at union membership meetings and, possibly, mailed to each employee's home. They should be co-signed by representatives of both parties.

Do's and Don'ts

Once the Joint Action Committee has been set up and organizational items have been agreed upon, the success of the committee depends on the parties. Based on past experience, some of the 'do's' and 'don'ts' that provide the framework for success are identified.

- Do** Keep the discussion centred on the issue involved.
- Do** Keep personalities from becoming involved.
- Do** Hold all meetings as scheduled; cancel meetings only in an emergency.
- Do** Be prompt in attending the meetings.
- Do** Submit the agenda in advance to allow the opposite party sufficient time to investigate problems.
- Do** In submitting the agenda, identify all items to be discussed.
- Do** Maintain an agreed-to procedure on recording and drafting the minutes, as well as methods of distribution.
- Do** Maintain accurate minutes on subjects discussed at the previous meetings that have been 'completed' or 'resolved' as well as those items still 'open.'
- Do** Be sure the committee concept is explained to and understood by employees and supervisors.
- Don't** Start the first meeting with extremely difficult issues.
Get accustomed to this problem-solving technique by tackling rather minor problems first.
- Don't** Allow the meetings to become gripe sessions.
- Don't** Deal in generalities; be specific about the problem and its suggested correction.
- Don't** Anticipate that you know the answer to a question before it has been discussed; ask questions to get the facts.

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- Don't** Treat any issue on the agenda as being unimportant; each item on the agenda deserves thorough investigation and discussion.
 - Don't** Delay in communicating solutions developed for serious problems or the outcome of issues discussed.
 - Don't** Start scheduled meetings late or drag them on beyond the allotted time; this has often brought failure.
 - Don't** Look for immediate results.

And remember, it is important that less serious problems be discussed initially to familiarize everyone with the committee operation and the process of working together to solve problems.

Sample Format of Committee Bylaws

Joint Action Committee

Purpose

To investigate, study and discuss possible solutions to mutual problems affecting union-management relations.

Representation

Union: Members

Comprising: _____

Company: Members

Comprising: _____

The Chair

The chair shall alternate monthly between the union and management. Each party will determine whether it will have a permanent chairperson or rotating chairpersons.

Reporting

Topics will be recorded as they are discussed. Any procedures or recommendations developing from these meetings will be communicated to the proper group; i.e., operating department, joint standing committee, negotiating committee, etc.

Drafts of the minutes of meetings will be refined by one designated representative from each party.

Sample Format of Agreement to Establish Joint Action Committee

2.51

The company and the union, desiring to foster better day-to-day communications and to achieve and maintain a mutually beneficial relationship through the use of a continuing communications program to effectively maintain stable union-management relations and avoid controversies, do hereby establish these bylaws for a Joint Action Committee.

2.52

The purpose of the committee is to discuss, explore and study problems referred to it by the parties to this Agreement. The committee, by mutual agreement, shall be authorized to make recommendations on those problems that have been discussed, explored and studied.

2.53

In order to have a frank and open discussion, the committee shall have no authority to change, delete or modify any of the terms of the existing Company-Union Agreement, nor to settle grievances arising under the Company-Union Agreement. Committee discussions shall not be publicized except for those recommendations that have been mutually agreed upon.

2.54

The committee shall be composed of members, representing the Union and representing the Company. The Union Committee shall include

The Company Committee shall include

A representative of the Ontario Mediation and Conciliation Service may be invited to attend and participate in committee meetings.

2.55

The Chair of the committee shall alternate between a representative appointed by management and a representative appointed by the union. The representative appointed as chairperson shall serve a term commencing with the close of the meeting at which his or her appointment is announced and continue until the end of the next meeting.

— Meetings shall be held on a day designated by the Chairperson during the first full calendar week of the month. However, interim meetings may be held if mutually agreed to by the committee.

— Meetings shall be conducted in the plant unless otherwise agreed to.

— Meetings shall begin at a time agreed upon by the parties.

— The Chairperson shall cause an agenda to be prepared for the meeting and distributed to all members at least two working days prior to the meeting.

Date and Time of Meetings

Meetings shall be held once a month, and they shall be limited to two hours. An agenda shall be submitted to both parties 48 hours prior to the meeting. At the first meeting, a specific day and time shall be selected for future meetings. Every attempt shall be made to keep such a schedule, realizing that some flexibility is necessary.

Topics not on the agenda shall not be discussed but rather shall be placed on the following month's agenda. The agenda shall include a brief description of each item to be discussed. Emergency items may be added to the agenda by mutual consent.

Discussion of agenda topics will be alternated, with the Chair exercising the right to designate the first topic.

General Guides

1. It is recognized that recommendations growing out of these meetings are not binding.
2. No grievances shall be discussed and no bargaining shall take place.
3. Topics that could lead to grievances may be discussed.
4. Each person wishing to speak shall be recognized by the Chair before speaking.
5. The Chair shall recognize a motion from either party to table a topic for further study.
6. Either party may initiate a request to the Ontario Conciliation and Mediation Service for assistance.
7. Each topic shall be discussed fully and action reached before proceeding to another topic. Topics requiring further study may be tabled. Where mutually satisfactory decisions are not reached, the topic shall be cancelled, reverting to its proper place in the union-management relationship – for instance, grievance procedure, negotiations, etc.



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